

Pranav vs State of Kerala

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Court : Kerala

Decided On : Apr-23-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./2820/2024

Appellant : Pranav

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 BAIL APPL. NO. 2820 OF 2024 CRIME NO.158/2024 OF KONDOTTY POLICE STATION, MALAPPURAM PETITIONER: PRANAV AGED 35 YEARS S/O. CHITHRA, ODAYOLA, CHANAKKADI HOUSE, PALLIKKAL P.O, MALAPPURAM DISTRICT, PIN - 673634 BY ADV P.C.MUHAMMED NOUSHIQ RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX BY NEEMA. T.V. SENIOR PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.04.2024, THE COURT ON THE

SAME DAY DELIVERED THE FOLLOWING: Dated this the 23rd day of April, 2024

ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the sole accused in Crime No.158/2024 of the Kondotty Police Station, Malappuram, registered against him for allegedly committing the offences under Sections 341 and 324 of the Indian Penal Code and under Sections 75 of the Juvenile Justice (Care and Protection of Children) Act. The petitioner was arrested on 13.02.2024.

2. The crux of the prosecution case is that; in

November 2023, the accused, who is the stepfather of the minor victim, assaulted the victim and inflicted grievous injuries on him. He also burned the buttocks of the victim with a heated iron spatula. Thus, the accused has committed the above offences.

3. Heard; Sri. P. C. Muhammed Noushiq, the learned counsel appearing for the petitioner and Smt. Neema. T.V, the learned Public Prosecutor.

4. The learned counsel for the petitioner

submitted that the petitioner is totally innocent of the accusations levelled against him. He has been falsely implicated in the crime due to the animosity of the relatives of his present wife. There are absolutely no materials to substantiate the allegation levelled against the petitioner. In any given case, the petitioner has been in judicial custody since 13.02.2024, the investigation in the case is complete, and the final report has been laid.

Therefore, the petitioner's further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the

application. She submitted that there are incriminating materials to substantiate the petitioners involvement in the crime. If the petitioner is released on bail, there is every likelihood of him intimidating the victim and witnesses and also tampering with evidence. Hence, the application may be dismissed.

6. The prosecution allegation against the petitioner had assaulted the minor victim by inflicting grievous injuries on him. The fact remain that the petitioner has been in judicial custody for the last 70 days, the investigation in the case is complete and the final report has been laid.

7. In *Sanjay Chandra v. CBI*, [2012 1 SCC 40], the

Honourable Supreme Court has categorically held that the fundamental postulate of criminal jurisprudence is the presumption of innocence, until a person is found guilty. Any imprisonment prior to conviction is to be considered as punitive and it would be improper on the part of the Court to refuse bail solely on the ground of former conduct.

8. In *Dataram Singh v. State of U.P.*, [(2018) 3

SCC 22] the Honourable Supreme Court observed that grant of bail is the rule and putting a person in jail is an exception. Even though the grant of bail is entirely the discretion of the court, it has to be evaluated based on the facts and circumstances of each case and the discretion has to be exercised in a judicious and compassionate manner.

9. Subsequently, in *State of Kerala v. Raneef*,

[(2011) 1 SCC 784], the Honourable Supreme Court has again held that undertrial prisoners detained in jail for indefinite periods, without any sufficient reason or due to the delay in concluding the trial, will tantamount to infringement of their right to life guaranteed under Article 21 of the Constitution.

10. In *Hussainara Khatoon (I) v. Home Secy.*,

State of Bihar [(1980) 1 SCC 81], the Honourable Supreme Court while dealing with a case of under trials, who suffered long incarceration, held that the

procedure that keeps large number of people behind the bars without trial for long is unreasonable and unfair, and is not in conformity with the mandate of under Article 21 of the Constitution of India.

11. The principle that bail is the rule and jail is an exception is on the touch stone of Article 21 of the Constitution of India. Once, the charge sheet is filed, a strong case has to be made out for continuing a person in judicial custody. The right to bail cannot be denied merely due to the sentiments of the society.

12. On an overall consideration of the facts, the rival submissions made across the Bar, and the materials placed on record, especially on comprehending the fact that the petitioner has been in judicial custody for the last 70 days, that the investigation

in the case is practically complete, and considering the peculiar facts and circumstances of the case, I am satisfied that the petitioner is entitled to be enlarged on bail, but subject to stringent conditions. In the result, the application is allowed, by directing the petitioner to be released on bail on him executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following conditions:

(i) The petitioner shall appear before the

Investigating Officer on every Saturday between 9 a.m. and 11 a.m till the final report is laid, whichever is earlier. He shall also appear before the Investigating Officer as and when required;

(ii) The petitioner shall not directly or indirectly

make any inducement, threat, or procure to any person acquainted with the facts of the case or the victim so as to dissuade them from disclosing such facts to the court or to any Police Officer or tamper with the evidence in any manner whatsoever;

(iii) The petitioner shall not commit any offence while he is on bail;

(iv) The petitioner shall not enter the Taluk where

the victim is residing till the conclusion of the trial in Crime No. 158/2024, other than for the purpose of reporting before the Investigating Officer and appearing before the Court below;

(v) The petitioner shall surrender his passport, if

any, before the court below at the time of execution of the bond. If he has no passport, he shall file an affidavit to the effect before the court below on the date of execution of the bond;

(vi) In case of violation of any of the conditions

mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

(vii) Applications for deletion/modification of the bail conditions shall be moved and entertained by the court below. (viii) Needless to mention, it would be well within

the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* and another [2020 (1) KHC 663].

Sd/- mtk/23.04.24 C.S.DIAS, JUDGE APPENDIX OF BAIL APPL. 2820/2024 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE ORDER DATED 23.03.2024 IN CRL.M.C. NO. 373 OF 2024 PASSED BY THE COURT OF SESSION, MANJERI DIVISION Annexure A2 TRUE COPY OF ORDER DATED 26.03.2024 IN CRL.M.P. NO. 678 OF 2024 PASSED BY JUDICIAL FIRST CLASS MAGISTRATE, MALAPPURAM

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